

**CITY OF TAKOMA PARK, MARYLAND**  
**(Adopted March 14, 2005)**

**PRESENTATION, INTERVIEWS, SPECIAL SESSION, AND WORKSESSION**  
**OF THE CITY COUNCIL**

**Monday, November 1, 2004**

**OFFICIALS PRESENT:**

Mayor Porter	City Manager Matthews
Councilmember Austin-Lane	Deputy Clerk Carpenter
Councilmember Barry	City Attorney Silber
Councilmember Elrich	HCD Director Daines
Councilmember Seamens	Senior Planner Inerfeld
Councilmember Williams	

**OFFICIALS ABSENT:**

Councilmember Mizeur

The Council convened at 7:33 p.m. in the Council Chambers of the Municipal Building, 7500 Maple Avenue, Takoma Park, Maryland.

**COUNCIL COMMENTS**

Councilmember Williams noted an article about a book called “Meetings” in yesterday’s New York Times. The book contains pictures of various U.S. city councils during their meetings.

Councilmember Barry commented that the Halloween Parade was a fabulous success. The Recreation and Police Departments deserve special credit for the event. They did a great job.

Councilmember Seamens commented that he will be giving free rides to the polls tomorrow for residents of the 7500 through 7700 block of Maple Avenue.

**PUBLIC COMMENTS**

Lorraine Pearsall, Vice President of Historic Takoma, spoke about the importance of having the Gateway/Wayfinder program well coordinated with the Main Street program. We are concerned that it hasn’t been well coordinated. The Main Street Program is all about community and the things we believe in. It is all about the revitalization of Takoma Park in many respects.

Dan Robinson, Grant Avenue, commented that he is concerned about parking for the Community Center. Mr. Finn has pursued using the PEPCO lot across the street for temporary parking. We had suspected that the lot was to be used for parking after the Community Center was built. Initially, there was adequate parking in the plan for the center, but the gym and parking came off

because of funding. The question is how much parking will the gym need, and where will it go? Is there a parking plan for the gym, and what is it? If not, tell us that and what the options are.

Ms. Porter commented that the discussion for next week will be a public hearing, to open a public discussion of bond funding for the Community Center. The last time we talked about this, there were a number of options discussed. All or some of them could come back as options. You are correct, there is not a concrete plan for parking. It was put into Phase 2, along with the gym.

Mr. Seamens noted that the underground parking plan ran into geological problems.

Mr. Robinson said it would behoove the Council to put a plan on the table. He expressed concern for the impact on the surrounding community.

Ms. Porter agreed that if there is sentiment in favor of adding a gym at this point, we would have to look at that. She assured Mr. Robinson that when there is a plan it will be made public.

Ms. Austin-Lane objected to the public comment period being used as a time for dialogue.

Mr. Seamens commented that Council will need to look at parking and plan for this.

Mr. Robinson said, if you considered the gym on paper, you would have had to have had a plan for parking

Ms. Porter reiterated, the only plan I know of is the underground parking that was planned.

Ms. Austin-Lane commented that we have had a discussion of parking on Maple Avenue, where creating angled parking is one option, along with reducing Maple to three lanes.

Mr. Robinson asked, do you know or will you know how many parking spaces will be required?

Mr. Elrich commented that the number of parking spaces should have been known during the planning process.

Ms. Porter said she would ask staff to get the information for next week.

Lorraine Pearsall spoke again, continuing her comments on the Gateway Wayfinding program. The Main Street program says present what you are. In addition, we have a concern that the City logo has been redesigned and simplified, and that it will be a symbol used for the wayfinding program. We have the original seal at Historic Takoma. We would like to say that you should consider other aspects of what Takoma Park is. The program is focusing on the two colleges and the hospital. Old Town is being left out. Perhaps we can broaden it to include other areas. A lot of Takoma Park needs to be part of this program.

Sabrina Baron, Historic Takoma, said that she, too, is concerned about the wayfinder program integration into the Main Street program, and into the historic aspects of Takoma Park. It seems that the program is looking to find a new identity for Takoma Park.

## **PRESENTATION**

### **1. Update on the Community Center Construction Project.**

Ms. Matthews reported that staff continues to review scheduling issues with Knott Construction. If we had a certainty as to when the project is to be completed, Council would have had the Molina contract (for the community level) before you. Instead, we have notified Mr. Molina that the project will be rebid after the first of the year. We will be meeting with our scheduling expert, the contractor, and our construction attorney to review the \$300,000 delay claim. We hope to bring a recommendation to Council before the end of this month.

We did encounter soil problems in the area of the community learning center. We don't yet have a cost estimate. Excavation and replacement of soil will be needed. We will be hearing about what may be needed in the way of drainage.

A number of pending change orders have been filed. I will provide an update on finances at the next meeting.

A recent issue involved access for our cable staff to their work area upstairs. We have created another means of egress while maintaining the security of the construction area.

## **INTERVIEWS**

### **2. Ethics Commission.**

Greg Lebel and Kevin Sturtevant were present for their interviews.

Ms. Porter noted that the commission has been fairly active. I appreciate your assistance. Would you like to share anything with us?

Mr. Lebel said the Commission will be working to ensure that our procedures are in compliance with the ordinance.

Mr. Sturtevant said the Commission expects to make recommendations on how to streamline the procedures.

Ms. Porter asked if the Commission can devise some ethics reporting forms for Council.

Mr. Sturtevant said the Commission has looked at that. We are delaying forms until the procedures are clear.

Mr. Seamens asked, has the Commission looked at broadening the range of ethics concerns?

Mr. Sturtevant said, we have talked about that. It came up during the Council training. We haven't made a determination on this. We've been trying to get newer members up to speed. We intend to take a look at that.

Mr. Lebel commented that he has served on the Commission for seven years. It is an issue that comes up from time to time. Once we get this next piece in place, that will be addressed again. Because the Commission has been enlarged, from five to seven members, that is also an issue.

Ms. Austin-Lane asked, do you need more people?

Mr. Sturtevant responded, we were not aware of the resignation of Nancy Cohen. We are a bit behind. We are trying to deal with the issues one at a time. We liked that the Commission was expanded, to include lawyers and lay people. We'd love to see the vacancies filled, keeping in mind diversity issues, including geographic diversity within the city.

Ms. Austin-Lane asked, how would you market this committee to residents? Can you give us an idea of attributes that would make this committee of interest?

Mr. Sturtevant said, we meet quarterly. We would like to highlight the committee on the web page.

Mr. Lebel said we have a decent mix of lawyers and non-lawyers. Personal qualifications include basic qualifications of what the city is about. We come from various backgrounds.

Ms. Porter noted there is good mixture of attorneys, specialists, and generalists. We appreciate the contribution of both of you.

### **3. Public Safety Citizens Advisory Committee.**

Rajat Sen and Gayle Fisher-Stewart were present for the interview.

Ms. Porter asked, why are you interested in the Committee?

Mr. Sen said he is new to Takoma Park, having just bought a house on Carroll Avenue. The broad charter of the Committee was appealing. I have no special knowledge of public safety. I volunteered to take the minutes when I attended the meeting recently.

Mr. Seamens asked, do you have any special focus in public safety?

Mr. Sen noted the need for balance. We want a safe community but not overly law enforcement driven.

Mr. Porter commented to Ms. Fisher-Stewart, you got a very nice recommendation from Capt. Coursey in the Police Department. You've done a number of things to assist the Committee and the Department. He recommended you.

Ms. Fisher-Stewart said, our main focus has been the neighborhood safety contacts. We are looking at public safety issues, and looking at how to balance the rights of the citizens and the needs of the community for police. If we put a focus on traffic, it can take care of some of the other issues. If you stop speeders and red light runners, you can pick up the guns and the drugs. It is important to communicate with the community before beginning a program like that. We are looking at grant writing. We are interested in members who are familiar with grant writing, computers and forecasting. We would like to find experts in grant writing to bring assistance to the City. Emergency preparedness is another area of interest. We are looking at the first 72 hours in an emergency preparedness situation. We are looking at training the neighborhood safety contacts for the emergency situations. We are working with the Police Department. We have a very good relationship with them. We want to assist them in finding the funds to do what they need to do.

Mr. Barry asked, what are your thoughts as to what can be done in our larger apartment buildings, where people can be cocooned.

Ms. Fisher-Stewart said, we are looking at setting up contacts for each building, where the contact is a resident in the building.

Mr. Sen said we can set up a regular outreach program and hold regular meetings with people in apartment complexes. The Committee can help with that. He commented further, my experience with the Takoma Park Police recently was excellent. They stopped me for rolling through a stop sign.

Ms. Porter asked, is there communication between the neighborhood safety contact program and the contacts we already have with tenants? We should mention the PSCAC to tenants when we contact them.

Mr. Kelemen, chair of the PSCAC, said, we are doing it to some extent. All the COP team officers have been asked to mention the committee and the neighborhood safety contacts when they attend community meetings. Also, the City Manager has asked us to attend community meetings with her.

Mr. Williams commented, in thinking about cocooning, how much has the Committee worked with the Police Department in overcoming their occasional tendency to cocoon, and not to interact with residents as much as we would like.

Ms. Fisher-Stewart said, we conducted training with the Police Department. It is police culture. It is important for people to see them outside their cars and attending community meetings and activities. The personal contact provided by the neighborhood safety contacts helps with that.

Mr. Kelemen commented, we say we don't want to see the "blue blob." We want the police to circulate at meetings.

## **SPECIAL SESSION**

### **4. 2<sup>nd</sup> Reading Ordinance re: Contract for Construction Management/Inspection Services.**

Moved by Seamens/seconded by Williams.

Ordinance #2004-30 was adopted unanimously at 2<sup>nd</sup> reading (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Seamens, Williams; ABSENT: Mizeur).

#### **ORDINANCE #2004-30 (attached)**

### **5. Resolution re: COLTA Appointments.**

Moved by Barry; seconded by Seamens.

Resolution #2004-55 was adopted unanimously (VOTING FOR: Porter, Austin-Lane, Barry, Elrich, Seamens, Williams; ABSENT: Mizeur).

#### **RESOLUTION #2004-55 (attached)**

## **WORKSESSION**

### **6. Transportation of Hazardous Materials.**

Nuclear Free Takoma Park (NFZ) Committee members Robert Rini, Julie Boddy and Jay Levy were present for the discussion.

Ms. Porter introduced the issue, noting that some of the rail lines over which the hazardous waste is transported cross the DC line and end up in Takoma Park.

Bob Rini thanked Council for considering the issue. The committee has been studying the issue for several years. We were moved by Fred Milar's testimony. Forty years ago, scientists thought they could store nuclear waste on site where it was created. Instead, the waste is now proposed to be transported to Yucca Mountain. We have learned that shipments from Calvert Cliffs and North Anna will travel over our highways and railways. An accident would make Takoma Park uninhabitable. A recent study demonstrates that property values decline in proportion to their location to the transport routes. Accidents happen every day. Mr. Rini cited the number of accidents, noting in particular the train derailment in Silver Spring several years ago and the Howard Street Tunnel fire in Baltimore. The fire in the tunnel would have

been sufficient to melt the casks that nuclear waste is transported in. Mr. Rini described other incidents and the vulnerability of the shipments to terrorist attack. Graffiti artists have access to these trains, why not terrorists?

The Nuclear Regulatory Commission, the Energy and Transportation Departments are interested in limiting information about these shipments. The DOE has failed to hold hearings on changes to shipment routes. Takoma Park is in good company. Other cities, towns, and organizations have passed legislation opposing shipments. The U.S. Conference of Mayors has expressed concerns. Takoma Park passed a resolution in 1995. The NFZ Committee debated this issue and how to address the concern that this is preempted by federal law. Some localities have enacted legislation.

We have looked at a variety of ordinances. We would like to see the City join the City of Las Vegas in banning transportation of nuclear waste to the Yucca Mountain facility. We cannot address the litigation risk with this. We ask that you amend our charter to include transportation of nuclear waste issues.

Mr. Levy noted a small article in the Sunday Washington Post. Eight cars derailed a mile and a half north of Union Station. Information from the Federal Railroad Administration indicates that there is more than one accident every two weeks. There have been 70 accidents involving derailment of more than 300 freight cars.

Mr. Elrich asked about the preemption question. I've heard about the New York case. Can we construct something that would work?

Ms. Silber noted that the New York case involved hazardous chemicals.

Mr. Rini said, yes, it was the Ritter case. We struggled with how we might learn from this case. The DC ordinance follows the lessons from the Ritter case—not ban it, but permit it. It's important to strike the right balance.

Ms. Silber noted that the federal government has a clear intent to take over all regulation of nuclear materials.

Ms. Porter commented on the feasibility of adopting legislation. It would help us if we were moving in coordination with the District of Columbia.

Mr. Rini agreed. We would encourage coordination with other municipalities.

Ms. Porter commented that at the Transportation Planning Board, it came up that Hyattsville, and perhaps College Park, have these concerns. To the extent that we are doing something in concert with others, we will be more effective. I don't know what their time frame is.

Mr. Levy said if DC effects the ban proposed, we are exempt from the shipments because our

rail line passes through DC.

Mr. Rini commented, there is a significant amount of federal activity in chemical and nuclear waste issues. We encourage City Attorney Silber to examine these issues. Las Vegas deals with hazardous nuclear waste being transported to a repository. We want to take a narrow approach, addressing hazardous nuclear waste passing through communities on their way to a repository.

Ms. Porter said, there is not a large distinction between hazardous materials and hazardous nuclear materials. In the larger sense, I'm not sure we can separate. Legally, we may have to.

Mr. Rini said, we felt there was no inherent value in shipping nuclear waste, but there may be some inherent value in having chemicals pass through our communities, for instance, delivering chemicals to DC.

Mr. Levy said, the shipments that we would be host to would come about if the Yucca Mountain facility becomes operational. Waste would come up along the east coast corridor, west to Hanford to be encapsulated, and shipped back to Nevada for storage. This is to begin five to eight years from now.

Mr. Barry asked if the presidential election outcome might eliminate the problem.

Mr. Rini responded that Senator Kerry said he's against the transportation of waste to Yucca.

Mr. Seamens thanked the presenters for their work. You've already realized some benefit, in that the Department of Homeland Security is already diverting shipments to other routes, since March. Did you say there are no nuclear materials on these rails at this time?

Mr. Levy and Mr. Rini indicated that they don't know. To the best of our knowledge they are not transporting materials from nuclear plants. They may begin to transport in anticipation of the opening of Yucca Mountain, pending the decision about storing the waste there.

Mr. Levy said, in the case of Department of Defense material, no one would have control or previous knowledge. Maybe the governor knows.

Mr. Rini reiterated, our ordinance is targeted to the nuclear waste issue.

Mr. Seamens commented, this is a large issue. I would find it personally helpful to hear the other side of the argument. I would like to hear from a proponent of the plan. How they feel it is safe so that we can make an informed decision?

Mr. Barry asked, did Las Vegas attract a lot of federal scrutiny. Is it a ban?

Mr. Rini said, it is a simple ban on transporting waste to a repository. There has been no litigation to the best of our knowledge. We don't know if they intend to transport the waste



through Las Vegas.

Mr. Levy noted, there is now no rail line outside Las Vegas to the side. The could lay track around Las Vegas.

Mr. Williams noted the freight train traffic he observed when he was in Cumberland, Maryland for the recent MML Fall Conference. Those rail lines had freight trains running all day and night. People commented on the constant traffic. If the waste does not pass by here, then where? I'm not a lawyer, but I have an understanding about federal preemption. What will the federal reaction be to the potential District of Columbia law?

Mr. Rini commented that federal preemption deals with concerns about a patchwork of local regulations that are not in the good of the whole country. That's why we wanted to deal with the nuclear waste issue.

Ms. Boddy commented that the issue of preemption has been inherent in the development of nuclear power in this country. It has been a part of the development of the industry.

Ms. Austin-Lane said she appreciates the compilation the Committee put together. We need to take action, and I am interested in working with the Committee to see how you would like to amend your charter. I would like to see what a resolution would look like. What kind of staff support is needed?

Mr. Rini said, our recommendation is to mirror the Las Vegas ordinance. If you would like, to also mirror the DC ordinance, and go forward with a permitting process.

Mr. Barry asked if a permit would include issues of train speed, specifications for cars, car construction and inspection, to be examined by the public.

Mayor Porter said, it would be useful to me to know what other municipalities around us are doing. I don't know if anyone has started doing anything. We don't want to become the target for the first big lawsuit. I'm interested in working with surrounding jurisdictions because it reduces the likelihood of that. Also, are there others on the same rail line as ours considering action. I know about DC. The National Capital Planning Commission is proposing to move the rail lines.

Mr. Levy noted, Mt. Rainier did pass a resolution similar to ours. There was a county public hearing back in the 80s, where I testified.

Mr. Seamens commented, the temperament of the population has changed. People are much more aware of the issue and are better educated. After Mr. Milar was here, I brought this up to the COG public safety committee, where they said that because of the federal preemption issue it was not worth pursuing. If we can find other jurisdictions to work with, then it would make sense to go back to COG.

Ms. Austin-Lane noted that legislation will be introduced to forbid transportation of hazardous materials through DC.

Mr. Rini said it may be time for us to take action. We think the first step is to deal with the nuclear waste transportation issue. The risk involved in this is too great. We recommend that the City take a stand on this issue. We would encourage you to proceed with other, chemical transport, as well.

The Council discussion continued. Ms. Porter summarized Council's direction: hear from a proponent of the shipments; work with other jurisdictions and find out what they are doing; find out about federal preemption; have the City Attorney take a look at the NFZ committee's specific proposal; research how much leeway would we have in the permitting issue.

Council directed the City Attorney to spend up to 10 hours of time doing preliminary research. The item is to come back before Council sometime in January.

## **BREAK**

The Council recessed for a scheduled break at 9:30 p.m. The Council reconvened in worksession at 9:40 p.m.

## **7. Preliminary Design of Gateway Wayfinding Sign System.**

Terry Healy of Gallagher and Associates, Senior Planner Rob Inerfeld, and HCD Director Sara Daines were present for the discussion

Mr. Inerfeld described the outreach to date: staff has met with representatives of the Facade Advisory Board, representatives from the Old Takoma Business Association, Historic Takoma, the Arts and Humanities Commission, the Takoma/Langley CDA, Montgomery College, Longbranch representatives, the Historic Preservation Commission, the State Highway Administration, and others. He indicated that staff has spoken with Columbia Union College, the Washington Adventist Hospital, and Montgomery College about contributing financially to the project.

The item is to come back to Council in January. Staff will ask Council to prioritize which signs to install first. The City will need to encumber the \$17,000 by the end of the fiscal year.

Council discussed use of the City Seal versus the logo, and discussed the sign designs, pedestrian kiosks, potential location and types of signs. There was general consensus to proceed with the concept recommended. Council requested that additional community outreach take place.

## **ADJOURNMENT**

The Council adjourned for the evening at 11:07 p.m.